UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

NAUGHTY MUSIC, NEUTRAL GRAY MUSIC, PURE LOVE MUSIC, UH OH ENTERTAINMENT, INC., WUT' SHAWAN-A DO MUSIC, INC., STRICTLY RHYTHM RECORDS, INC. d/b/a STRICTLY RHYTHM PUBLISHING, and BASEMENT BOYS MUSIC, INC., Plaintiffs, - against - EESKAY NH, INC. and KURT J. MATHIAS, Defendants.	Civil Action No. **COMPLAINT**

Plaintiffs, by their undersigned attorneys, allege:

1. This is a suit for copyright infringement under Title 17 of the United States Code.

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a), and venue in this District is proper pursuant to 28 U.S.C. § 1400(a).

3. Plaintiffs allege three (3) causes of action for copyright infringement based on the Defendants' public performances of Plaintiffs' copyrighted musical compositions. SCHEDULE A, annexed to the Complaint, sets forth in summary form the allegations hereinafter made with respect to the Plaintiffs, their copyrighted musical compositions, and Defendants' acts of infringement.

THE PARTIES

4. The Plaintiffs named in Column 2* are the owners of the copyrights in the works listed in Column 3, and are properly joined in this complaint under Rule 20 of the Federal Rules of Civil Procedure.

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* All references to "columns" herein refer to the numbered columns set forth in SCHEDULE A.

5. On information and belief, defendant Eeskay NH, Inc. ("ENI"), is a corporation organized under the laws of New Hampshire, with a principal place of business located at 55 Northeastern Boulevard, Nashua, New Hampshire 03062.

6. At all times hereinafter mentioned ENI did, and still does, own, control, manage, operate, and maintain a place of business for public entertainment, accommodation, amusement, and refreshment known as Boston Billiard Club ("BBC"), located at 55 Northeastern Boulevard, in Nashua.

7. Musical compositions were and are publicly performed at BBC.

8. Defendant Kurt J. Mathias ("Mathias" and together with ENI, the "Defendants") is an individual who resides and/or does business in this District.

9. Mathias is a principal, director, and/or officer of ENI.

10. At all relevant times, Mathias was, and still is, responsible for the control, management, operation, and maintenance of the affairs of ENI.

11. At all times hereinafter mentioned, Defendants jointly had, and still have, the right and ability to supervise and control the activities that take place at BBC, including the right and ability to supervise and control the public performance of musical compositions at BBC.

12. Each Defendant derives a direct financial benefit from the public performance of musical compositions at BBC.

FACTS SPECIFIC TO DEFENDANTS' INFRINGEMENT OF PLAINTIFFS' COPYRIGHTED MUSICAL COMPOSITIONS

13. The Plaintiffs are all members of the American Society of Composers, Authors, and Publishers ("ASCAP"), a membership association that represents, licenses, and protects the public performance rights of its more than 600,000 songwriter, composer, and music publisher members.

14. Each ASCAP member grants to ASCAP a non-exclusive right to license the performing rights in that member's copyrighted musical compositions. On behalf of its members, ASCAP licenses public performances of its members' musical works, collects license fees associated with those performances, and distributes royalties to its members, less ASCAP's operating expenses.

15. In undertaking the conduct complained of in this action, Defendants knowingly and intentionally violated Plaintiffs' rights. Defendants' knowledge and intent are established by the following facts:

(a) On January 1, 2006, Defendant Mathias entered into a license agreement with ASCAP as the sole owner of BBC.

(b) Defendant Mathias' ASCAP license was terminated effective February 15, 2009, when ASCAP learned that Mathias had converted the ownership of BBC from a sole proprietorship to a corporation. Since ASCAP's license is not assignable or transferable, a new license was offered to ENI.

16. Since termination of BBC's ASCAP license, ASCAP representatives have attempted to contact the Defendants, their representatives, agents, or employees, to offer to BBC a new license on more than 35 separate occasions. ASCAP's representatives have attempted to contact Defendants or their representatives, agents, or employees by mail, email, phone, and in-person.

17. ASCAP's various communications gave Defendants notice that unlicensed performances of ASCAP's members' musical compositions at BBC constitute copyright infringement.

18. The original musical compositions listed in Column 3 were created and written by the persons named in Column 4.

19. Each composition was published on the date stated in Column 5, and since the date of publication has been printed and published in strict conformity with Title 17 of the United States Code.

20. The Plaintiffs named in each cause of action, including their predecessors in interest, if any, complied in all respects with Title 17 of the United States Code, secured the exclusive rights and privileges in and to the copyright of each composition listed in Column 3, and received from the Register of Copyrights a Certificate of Registration, identified as set forth in Column 6.

21. Defendants on the dates specified in Column 7, and upon information and belief, at other times prior and subsequent thereto, infringed the copyright in each composition named in Column 3 by performing publicly the compositions at BBC, for the entertainment and amusement of the patrons attending said premises, and Defendants threaten to continue such infringing performances.

22. The public performances at BBC of the Plaintiffs' copyrighted musical compositions on the dates specified in Column 7 were unauthorized: neither Defendants, nor any of the Defendants' agents, servants or employees, nor any performer was licensed by, or otherwise received permission from any Plaintiff, or any agent, servant, or employee of any Plaintiff, to give such performances.

23. In undertaking the conduct complained of in this action, Defendants knowingly and intentionally violated Plaintiffs' rights.

24. The many unauthorized performances at BBC include the performances of the three copyrighted musical compositions upon which this action is based.

25. At the times of the acts of infringement complained of, the Plaintiff named in each cause of action was the owner of the copyright in the composition therein named.

26. The said wrongful acts of the Defendants have caused and are causing great injury to the Plaintiffs, which damage cannot be accurately computed, and unless this Court restrains the Defendants from the further commission of said acts, said Plaintiffs will suffer irreparable injury, for all of which the said Plaintiffs are without any adequate remedy at law.

WHEREFORE, Plaintiffs pray:

I. That Defendants and all persons acting under the direction, control, permission, or authority of Defendants be enjoined and restrained permanently from publicly performing the aforementioned compositions -- or any of them -- and from causing or permitting the said compositions to be publicly performed at Boston Billiard Club, or in any business owned, controlled, managed, operated or conducted by Defendants, and from aiding or abetting the public performance of such compositions in any such place or otherwise.

II. That Defendants be decreed to pay such statutory damages as to the Court shall appear just, as specified in 17 U.S.C. § 504(c)(1), namely, not more than Thirty Thousand Dollars ($30,000) nor less than Seven Hundred And Fifty Dollars ($750) in each cause of action herein.

III. That Defendants be decreed to pay the costs of this action and that a reasonable attorney's fee be allowed as part of the costs.

IV. For such other and further relief as may be just and equitable.

Respectfully submitted,

Naughty Music, Neutral Gray Music, Pure Love Music, Uh Oh Entertainment, Inc., Wut' Shawan-A Do Music, Inc., Strictly Rhythm Records, Inc. d/b/a Strictly Rhythm Publishing, and Basement Boys Music, Inc.

By Their Attorneys,
Ransmeier & Spellman Professional Corporation

Dated: May 2, 2017

By: _/s/ Daniel J. Mullen_
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